



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D C. 20460

Office of Environmental Justice and External Civil Rights
Office of External Civil Rights Compliance

October 3, 2022

In Reply Refer to:

EPA Complaint No. 05RNO-21-R4

Elizabeth S. Biser, Secretary
North Carolina Department of Environmental Quality
217 West Jones Street
Raleigh, NC 27603
elizabeth.biser@ncdenr.gov

Re: Informal Resolution/Tolling of Investigative Timeframe

Dear Secretary Biser:

This letter concerns EPA Complaint No. 05RNO-21-R4, which was accepted for investigation on January 13, 2022. The U.S. Environmental Protection Agency's (EPA) Office of External Civil Rights Compliance (OECRC)¹ is required by regulation to seek cooperation with recipients in securing compliance with 40 C.F.R. Parts 5 and 7 through informal and voluntary means.² The process of developing and executing an Informal Resolution Agreement (IRA) was described to representatives of the North Carolina Department of Environmental Quality (NC DEQ) during telephone conversations held on February 2, 2022 and March 7, 2022. On June 30, 2022, OECRC received NC DEQ'S electronic communications informing our office that the NC DEQ had agreed to engage in negotiations, which may include facilitated discussions with representatives of the complainants, toward the execution of an informal resolution agreement (IRA) and that DEQ would respond to the June 10, 2022 request for information on a rolling basis until completed no later than August 9, 2022. Accordingly, as of June 30, 2022, OECRC and NC DEQ have commenced informal resolution agreement discussions. OECRC, therefore, will suspend the timeframe to issue preliminary findings within 180-day of opening the investigation, as provided for in 40 C.F.R. § 7.115(c)(1), for the duration of the informal resolution agreement process. OECRC will ensure that this process occurs without undue delay.

The goal of the IRA negotiation process is to reach an agreement between OECRC and the NC DEQ that resolves the issues accepted for investigation. If NC DEQ and OECRC fail to reach an informal resolution agreement, OECRC will notify NC DEQ of that fact and resume the process

¹ On September 24, 2022, EPA announced the establishment of the Office of Environmental Justice and External Civil Rights (OEJEER) into which the External Civil Rights Compliance Office (ECRCO) was reorganized and renamed the Office of External Civil Rights Compliance (OECRC)(see <https://www.epa.gov/external-civil-rights>). OECRC continues to enforce and ensure compliance with federal civil rights laws, which prohibit discrimination by applicants for and recipients of EPA financial assistance. OECRC accomplishes in accordance with the procedure described in the Case Resolution Manual (see https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf).

² See 40 C.F.R. § 7.105 (EPA "shall seek the cooperation of applicants and recipients in securing compliance with" 40 C.F.R. Part 7); and 7.120(d)(2) (EPA "shall attempt to resolve complaints informally whenever possible.").

Elizabeth S. Biser, Secretary

for issuing preliminary findings.³ During the IRA process our offices will continue to engage with NC DEQ to gather the necessary facts and information, including requesting your assistance in accessing pertinent records, arranging interviews of witnesses, among other actions. Engagement during the IRA negotiation process may also include EPA facilitated meetings between NC DEQ and the complainant. Information thus obtained will be used in drafting a responsive IRA.

If you have questions about this letter, please feel free to contact me at (202) 564-9649, or by email at hoang.anhthu@epa.gov, or Suong Vong, Case Manager by email at vong.suong@epa.gov.

Sincerely,

ANHTHU
HOANG

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ANHTHU HOANG
Date: 2022.10.02
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Anhthu Hoang
Acting Director
Office of External Civil Rights Compliance
Office of Environmental Justice and
External Civil Rights

cc: Bill Lane
Deputy Secretary for Policy & Legal Affairs/General Counsel
North Carolina Department of Environmental Quality

Ariadne Goerke
Deputy Associate General Counsel
Civil Rights & Finance Law Office

Fred Thompson
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 4

Leif Palmer
Regional Counsel
U.S. EPA Region 4

³ See 40 C.F.R. § 7.115(c). In the event ECRCO and NC DEQ cannot reach an Informal Resolution Agreement, ECRCO will resume the process for issuing preliminary findings within 180 days of the start of the investigation – excluding the period spent in the informal resolution agreement process.